

## REMARKS

The Office Action, mailed May 29, 2007, considered and rejected claims 1-20. Claims 1-2, 5-8, 10-12, and 15-20 were rejected under 35 U.S.C. 102(b) as being anticipated by *Peterson et al.* (US Patent 6,152,937), claims 3-4 and 13-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Peterson et al.* in view of *Abrams et al.* (US Patent 6,036,720), while claim 9 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Peterson et al.* in view of *Salahieh et al.* (US Patent 5,769,870).<sup>1</sup> By this paper, claims 1, 5, 10, 15 have been amended. Accordingly, following this paper, claims 1-20 remain pending, of which claims 1, 10, and 15 are the only independent claims at issue.

*Peterson et al.* was cited as disclosing "a method of manufacture of a clip-like device" comprising various steps (Office Action Page 2). *Peterson et al.* discloses "structures that can be used to make connections between tubular medical grafts and a patient's tubular body conduits" (Col. 1, ll. 6-8). *Peterson et al.*, however, neither teaches nor suggests the invention claimed in independent claims 1, 10, or 15. In particular, the method of manufacture described in *Peterson et al.* includes machining "the configuration (represented as a plane in FIG. 2) by laser cutting, electron discharge machining (EDM), or etching. The machining may be performed either in the cylindrical tubular configuration or in the sheet configuration" (Col. 6, ll. 26-31). "The next step is to deflect fingers on the machined tube to approximately the positions that are desired in the finished and installed connector", i.e., that illustrated in FIG. 2 (Col. 6, ll. 35-37). "The machined tube is placed in a mold and heat-shaped into a geometry approximately that which the component 10 will assume after deployment" (Col. 6, ll. 39-41). The "geometry" after deployment has a configuration to "join a graft conduit and a tubular body conduit in and end-to-end anastomosis", which can be seen in FIG. 14 (Col. 7, ln. 66-col. 8, ln. 1).

In contrast, the invention recited in independent claims 1 and 10 includes "heat treating the clip with the plurality of tines extending within the plane to program the clip and the plurality of tines to be biased to remain within the plane in a planar configuration" and the invention in

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art. Further, notwithstanding the arguments made herein, it should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise.

independent claim 15 includes "heat treating the clip with the pair of primary tines extending within the plane to program the clip and the pair of primary tines to be biased to remain within the plane in a planar configuration." *Peterson et al.* neither teaches nor suggests "heat treating the clip . . . to be biased to remain within the plane in a planar configuration." Heat treating the connector of *Peterson et al.* in a planar configuration would be inconsistent with the underlying purpose of *Peterson et al.*, i.e., "join[ing] a graft conduit and a tubular body conduit in and end-to-end anastomosis" (Col. 7, ln. 66-col. 8, ln. 1).

*Abrams et al.* was cited in the Office Action for disclosing "a therapeutic coating or a radiopaque coating on at least a portion of the clip," while *Salahieh et al.* was cited in the Office Action for disclosing "at least a coating of a hydrophilic polymer." Neither *Abrams et al.* nor *Salahieh et al.* overcome the deficiency of *Peterson et al.* as described above. Further, there would be no reason to modify the teaching of any of *Peterson et al.* with any reference that discloses heat treating a planar member because it is inconsistent with the underlying purpose of *Peterson et al.* to create a tubular structure to "join a graft conduit and a tubular body conduit in and end-to-end anastomosis" (Col. 7, ln. 66-col. 8, ln. 1).

As such, Applicants respectfully submit that pending claims 1-20 are neither taught nor suggested by *Peterson et al.*, *Abrams et al.*, or *Salahieh et al.*, whether individually or collectively, nor obvious variations thereof, whether individually or collectively. Consequently, Applicants respectfully request that the rejection of claims 1-20 be withdrawn and the claims

In the event that the Examiner finds and remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 28th day of September, 2007.

Respectfully submitted,

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